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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,429	10/27/2003	Randy Ulvenes	2283	3346
28905 SPRINT 6391 SPRINT PARKWAY KSOPHT0101-Z2100 OVERLAND PARK, KS 66251-2100	7590 01/31/2011		<div>EXAMINER</div> <div>LAI, MICHAEL C</div>	
			<div>ART UNIT</div> <div>2457</div>	<div>PAPER NUMBER</div>
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/694,429

Applicant(s)

ULVENES, RANDY

Examiner

MICHAEL C. LAI

Art Unit

2457

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-6 and 13-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-6 and 13-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Transposition's Patent Drawing Review (PTO-848)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is responsive to communication filed on 11/17/2010.

Response to Amendment

2. The examiner has acknowledged the cancelled claims 1-3 and 20-25. Claims 4-6 and 13-19 are pending.

Response to Arguments

3. Applicant's arguments, see pages 7-10, filed 11/17/2010, with respect to the rejection(s) of claims 4-6 and 13-15 under 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejections have been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Nakanishi et al. (US 2004/0088170 A1) and Banerjee.
4. Applicant's arguments, see pages 10-12, filed 11/17/2010, with respect to the rejection(s) of claims 16-19 under 35 U.S.C. 103(a) have been fully considered but are not persuasive. Applicant argues that Banerjee does not generally teach just any entity carrying out those functions but is particularly focused on the client browser doing so. The examiner asserts that this is a design choice. Since applicant has not disclosed that using any entity solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the client browser carrying out those functions. One of ordinary skill in the art would have no difficulty making the design choice.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 4, 5, and 13-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Nakanishi et al. (US 2004/0088170 A1, hereinafter referred to as Nakanishi).

Regarding claim 4, Nakanishi discloses: In a communication system wherein web content is transmitted over a communication path from a content server to a client station, a method comprising the following functions carried out during transmission of the web content within the communication path, between the content server and the client station [see at least Fig. 4 and para. 0103-0125]:

computing a size-based cost to access the web content [para. 0179, charging information is set on a content basis in accordance with each size];

engaging in interstitial communication with the client station to receive user approval to pay the cost [para. 0178, 0184, the user checks the charging information corresponding to the use of the content, determines the use/purchase]; and

after receiving the user approval, sending the web content along to the client station [see at least para. 0197, downloaded; para. 0251, the

charging processing based on the **content size**, the content resolution, the content output/use method, etc. when the charging is carried out and **allows a content user to instruct the size**, the resolution, the output/use method, etc. at the time when the charging is carried out].

Regarding claim 5, Nakanishi discloses the method of claim 4, Nakanishi further discloses wherein computing the size-based cost to access the web content comprises: multiplying a charging-rate by a size of the web content [para. 0181, metered rate].

Regarding claim 13, Nakanishi discloses a communication system wherein web content is transmitted over a communication path from a content server to a client station, the web content defining a hyperlink to be presented by a browser running on the client station, the hyperlink pointing to referenced web content [see at least Fig. 4 and para. 0033-0037], a method comprising:

during transmission of the web content within the communication path, between the content server and the client station [see at least Fig. 4 and para. 0103-0125],

- (i) computing a size-based cost to access the web content [para. 0179, charging information is set on a content basis in accordance with each size] and
- (ii) adding an indication of the size-based cost into the web content, in conjunction with the hyperlink, such that the indication will be presented to

a user when the web content is presented to the user [see at least FIG. 3, URL of content and Charging Information; and para. 0205, the content data contains the charging information for carrying out the charging processing in accordance with the content size].

Regarding claim 14, Nakanishi discloses the method of claim 13, Nakanishi further discloses an access channel between content server and client station, and carrying out at least the adding within the access channel [see at least Fig. 4 and para. 0055].

Regarding claim 15, Nakanishi discloses the method of claim 13, Nakanishi further discloses engaging in interstitial communication with the user to collect user-payment of the size-based cost for the referenced web content [para. 0178, 0184, the user checks the charging information corresponding to the use of the content, determines the use/purchase].

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable Nakanishi as applied to claim 4, and in view of Kumar et al. (US 2003/0083041 A1, hereinafter referred to as Kumar).

Regarding claim 6, Nakanishi discloses the method of claim 5, but fails to teach wherein computing the size-based cost to access the web content further comprises: selecting the charging rate based at least in part on a factor selected from the group consisting of (i) a service level of a user requesting the web content. However, Kumar discloses computing the size-based cost is based on the user desired quality of service level [para 0045]. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate Kumar's teaching into Nakanishi's method for the purpose of providing various service levels by selecting the charging rate based on service levels of the users requesting the web content, thereby satisfying different users with different needs.

9. Claims 4, 5, and 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banerjee et al. (US 2003/0187806 A1, hereinafter referred to as Banerjee).

Regarding claim 4, Banerjee discloses: In a communication system wherein web content is transmitted over a communication path from a content server to a client station, a method comprising the following functions carried out during transmission of the web content within the communication path, between the content server and the client station [see at least Fig. 1 and para. 0041, 0043, 0047, 0048]:

computing a size-based cost to access the web content [see at least abstract, determining a download cost for the second web page; para. 0060, 0065];

engaging in interstitial communication with the client station to receive user approval to pay the cost [see at least abstract, displaying the cumulative download cost for the second web page; para. 0060, 0065]; and

after receiving the user approval, sending the web content along to the client station [see at least para. 0024, 0054, user click].

Banerjee discloses the claimed invention except that the client browser carrying out those functions instead of using any entity (e.g., an intermediate system) does so. It would have been an obvious matter of design choice to implement those functions in the client browser, since applicant has not disclosed that using any entity (e.g., an intermediate system) solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the client browser carrying out those functions.

Regarding claim 5, Banerjee discloses the method of claim 4, Banerjee further discloses wherein computing the size-based cost to access the web content comprises: multiplying a charging-rate by a size of the web content [see at least abstract, determining a download cost for the second web page; para. 0060, 0065].

Regarding claim 13, Banerjee discloses a communication system wherein web content is transmitted over a communication path from a content server to a client station, the web content defining a hyperlink to be presented by a browser

running on the client station, the hyperlink pointing to referenced web content [see at least Fig. 1 and para. 0041, 0043, 0047, 0048], a method comprising:

during transmission of the web content within the communication path, between the content server and the client station [see at least Fig. 1 and para. 0041, 0043, 0047, 0048],

(i) computing a size-based cost to access the web content [see at least abstract, determining a download cost for the second web page; para. 0060, 0065] and

(ii) adding an indication of the size-based cost into the web content, in conjunction with the hyperlink, such that the indication will be presented to a user when the web content is presented to the user [see at least abstract, displaying the cumulative download cost for the second web page; para. 0060, 0065].

Banerjee discloses the claimed invention except that the client browser carrying out those functions instead of using any entity (e.g., an intermediate system) does so. It would have been an obvious matter of design choice to implement those functions in the client browser, since applicant has not disclosed that using any entity (e.g., an intermediate system) solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the client browser carrying out those functions.

Regarding claim 14, Banerjee discloses the method of claim 13, Banerjee further discloses an access channel between content server and client station, and carrying out at least the adding within the access channel [Fig. 1, para. 0041, 0043, 0047, and 0048].

Regarding claim 15, Banerjee discloses the method of claim 13, Banerjee further discloses engaging in interstitial communication with the user to collect user-payment of the size-based cost for the referenced web content [see at least abstract, displaying the cumulative download cost for the second web page; para. 0060, 0065].

Regarding claim 16, Banerjee discloses a communication system wherein web content is transmitted over a communication path from a content server to a client station, a method comprising, during transmission of the web content within the communication path, the following functions:

receiving the web content [see at least abstract, downloading web content];

detecting a hyperlink within the web content, wherein the hyperlink points to referenced web content [see at least abstract, **second web page**];

determining a cost of the referenced web content based at least in part on a size of the referenced web content [see at least abstract, determining a download cost for the **second web page**; para. 0060, 0065];

adding into the web content, in conjunction with the hyperlink, an indication of the determined cost [see at least abstract, displaying the cumulative download cost for the second web page; para. 0060, 0065]; and

whereby the indication will be presented to a user when the web content is presented to the user, thereby giving the user an advanced notice of the cost of the referenced web content [see at least abstract, displaying the cumulative download cost for the second web page, taking into account bandwidth cost, usage cost, and any user credits; para. 0060, 0065].

Banerjee discloses the claimed invention except that the client browser carrying out those functions instead of using any entity (e.g., an intermediate system) does so and sending the web content, including the indication, along the communication path to the client station. It would have been an obvious matter of design choice to implement those functions in the client browser, since applicant has not disclosed that using any entity (e.g., an intermediate system) solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the client browser carrying out those functions.

Regarding claim 17, Banerjee discloses the method of claim 16, Banerjee further discloses wherein the communication path comprises an access channel

between client station and a packet-switched network [Fig. 1, para. 0041, 0043, 0047, and 0048] the method comprising carrying out the functions within the access channel.

Regarding claim 18, Banerjee discloses the method of claim 16, Banerjee further discloses wherein determining the size-based cost comprises multiplying a charging rate by the size of the web content [para. 0065].

Regarding claim 19, Banerjee discloses the method of claim 16, Banerjee further discloses wherein the web content is defined by a set of markup language [para. 0023], and wherein adding the indication of the size-based cost in conjunction with the hyperlink comprises adding into the set of markup language [para. 0060], adjacent to the hyperlink, display text indicative of the size-based cost [para. 0062].

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Banerjee as applied to claim 4, and in view of Kumar et al. (US 2003/0083041 A1, hereinafter referred to as Kumar).

Regarding claim 6, Banerjee discloses the method of claim 5, but fails to teach wherein computing the size-based cost to access the web content further comprises: selecting the charging rate based at least in part on a factor selected from the group consisting of (i) a service level of a user requesting the web content. However, Kumar discloses computing the size-based cost is based on the user desired quality of service level [para 0045]. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to

incorporate Kumar's teaching into Banerjee's method for the purpose of providing various service levels by selecting the charging rate based on service levels of the users requesting the web content, thereby satisfying different users with different needs.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Kurihara, US 2004/0098470 A1, has taught a size-based charging scheme.

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL C. LAI whose telephone number is (571)270-3236. The examiner can normally be reached on M-F 8:30 - 5:00 EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael C. Lai
27JAN2011

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Primary Examiner, Art Unit 2457